

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7825

BILL NUMBER: SB 406

DATE PREPARED: Jan 12, 2001

BILL AMENDED:

SUBJECT: Filing Fees and Domestic Violence.

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FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill specifies, in connection with the prosecution of a misdemeanor or felony domestic violence offense, that the victim of domestic violence is not responsible for bearing the costs associated with: (1) the filing of criminal charges against the domestic violence offender; or (2) the issuance or service of a warrant, an order, or a witness subpoena. It specifies, in connection with the filing, issuance, registration, or service of an order, that a victim of domestic violence, stalking, or sexual assault is not responsible for bearing the fees or costs associated with the filing, issuance, registration, or service of a warrant, an order, or a witness subpoena. It inserts a missing cross reference to the Marion County Small Claims Court in the law governing certain protective orders. It also makes related changes.

Effective Date: July 1, 2001.

Explanation of State Expenditures:

Explanation of State Revenues: This bill would result in a revenue loss to the state General Fund ranging between \$25,000 and \$50,000. However, if legislation prohibiting the payment of filing fees to have a protective order issued in the case of domestic violence charges is not implemented, the state may lose as much as \$7 M in grants from federal sources.

Background: Current statute, IC 33-19-5-4, treats petitions for protective orders as civil filings and charges a \$100 filing fee. Of this fee, a petitioner may pay \$35 upon filing and pay the balance at a later time. This same section also allows the court to waive the fee and require the responding party to pay either the entire fee of \$100 or the \$65 balance. By another section of the statute (IC 34-26-2-4), the court may waive filing fees for protective orders if the petitioner can document an inability to pay the fee. If the fee is waived, the court may order the filing fee to be paid by the responding party.

In practice, counties may treat filing fees for domestic violence cases in one of three ways. They may waive

the entire filing fee, charge an initial \$35 and waive the remaining balance of \$65 for a protective order, or allow the petition to be filed in small claims court and charge a \$35 fee. Consequently, the specific revenue loss from this bill is difficult to estimate.

Estimated Number of Cases Affected: In 1999, 21,066 protective orders were reported to be filed in Indiana's courts. Of these, the Marion County Clerk's Office estimates that about 60% of these filings are for domestic violence-related cases. The Marion County Clerk also reports that Marion County no longer collects the filing fee for protective orders in domestic violence cases. Consequently, the number of estimated filings that could be affected by this bill is 10,332.

Estimating the Potential Revenue Loss: It is assumed that the revenue loss from this bill would be from the reduction in the number of filers who would no longer pay the initial \$35 filing fee. This is because this bill does not change the current provision in statute that allows the court to order the responding party to pay either the entire fee or the \$65 balance. The low and high estimates, based upon information received from county clerks, assume that under current practice between 10% and 20% of the filers will pay the initial \$35 fee in domestic violence cases.

Because 70% of the filing fee is deposited in the state General Fund, the revenue loss will range between \$25,000 and \$50,000, as described in the following table.

	Low	High
Protective Order Filings in 1999	21,066	21,066
Percent Domestic (Based on Marion County Estimates)	60%	60%
Estimated Number of Protective Order Filings for Domestic Violence Cases	12,640	12,640
Adjusted Number Paying Filing Fees Excluding Marion County Filings:	10,332	10,332
Fee Paid	\$35	\$35
Assumed Percent Paying	10%	20%
Estimated Loss of Court Fee Revenue	\$36,162	\$72,324
Loss of State Share of Court Fee Revenue at 70%	\$25,313	\$50,627
Loss of Local Share of Court Fee Revenue at 30%	\$10,849	\$21,697

Federal Funding: If the current statute is not amended to automatically waive filing fees and other charges when a protective order has been requested, the state and local programs would no longer be eligible for funding through the Office for Victims of Crime (OVC) under the Victims of Crime Act (VOCA). Between 1997 and 2000, Indiana received the following funds. These funds were used for providing financial assistance to local programs that assist victims of domestic abuse.

Year	1997	1998	1999	2000
Revenue Received	\$8,546,000	\$5,889,000	\$5,053,000	\$7,873,000

Explanation of Local Expenditures:

Explanation of Local Revenues: Counties and municipal governments receive 30% of court fees. Consequently, the revenue loss to these entities would range between \$10,800 and \$21,700, as described in the table above. However, this bill would also prevent the potential revenue loss that local governments would experience if federal assistance for local programs which assist victims of domestic violence

(described under state revenues) is eliminated.

The Marion County Small Claims Court has not issued protective orders in over 10 years, consequently, repealing this fee for protective orders would cause no revenue loss to the Marion County Small Claims Court.

State Agencies Affected: Criminal Justice Institute.

Local Agencies Affected: Programs providing assistance to domestic abuse victims.

Information Sources: 1999 Indiana Judicial Report, Indiana Code, Criminal Justice Institute, Marion County Clerk of the Circuit Court.